

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ULICES RAMALES,

Plaintiff,

- against -

ELEVEN SIXTY-TWO BRANDS INC. and ZENDAYA
COLEMAN

Defendant.

Docket No. 2:20-cv-2365

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Ulices Rames (‘‘Rames’’ or ‘‘Plaintiff’’) by and through his undersigned counsel, as and for his Complaint against Defendants Eleven Sixty-Two Brands Inc. (‘‘Eleven Sixty-Two Brands’’) and Zendaya Coleman (‘‘Zendaya’’ and together with Eleven Sixty-Two Brands ‘‘Defendants’’) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of singer and actress Zendaya in New York, owned and registered by Rames, a New York based professional photographer. Accordingly, Rames seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendants because Defendants resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Rames is a professional photographer in the business of licensing his photographs to print and online media for a fee having a usual place of business at 222 West 233rd Street, Apt 4i, Bronx, New York 10463.

6. Upon information and belief, Zendaya does business at 121650 Oxnard Street, Suite 350, Woodland Hills, CA 91367. At all times material hereto, Zendaya has operated her Instagram page at the URL: www.Instagram.com/Zendaya (the “Website”).

7. Upon information and belief, Eleven Sixty-Two Brands is a business corporation duly organized with a place of business at 121650 Oxnard Street, Suite 350, Woodland Hills, CA 91367. At all times material hereto, Zendaya has operated an Instagram page at the URL: www.Instagram.com/Zendaya (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

8. Rames photographed singer and actress Zendaya in New York (the “Photograph”). A true and correct copy of the Photograph are attached hereto as Exhibit A.

9. Rames is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-165-204.

B. Defendant’s Infringing Activities

11. Defendants ran the Photograph on the Website to promote their brand. A screenshot of the Photograph on the Website is attached hereto as Exhibit B.
12. Defendants post with the Photograph received over 3 million Likes.
13. Defendants have over 70 million followers.
14. Defendants did not license the Photograph from Plaintiff for its Website, nor did Defendants have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANTS)
(17 U.S.C. §§ 106, 501)

15. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-14 above.
16. Defendants infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Defendants are not, and have never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.
17. The acts of Defendants complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.
18. Upon information and belief, the foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.
19. As a direct and proximate cause of the infringement by the Defendants of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendants profits pursuant to 17 U.S.C. § 504(b) for the infringement.

20. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendants willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

21. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendants be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendants profits, gains or advantages of any kind attributable to Defendants infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendants be required to account for all profits, income, receipts, or other benefits derived by Defendants as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
May 27, 2020

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